

A. G. Contract No. KR-88-1420-TRD

ECS File: IGA-88-38
Project: F-022-3(53)
Section: Mesa West City Limits-
S.R. 87

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
THE CITY OF MESA

THIS AGREEMENT is entered into August 9, 1988, pursuant to Arizona Revised Statutes Section 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State"), and the CITY OF MESA, acting by and through its City Council (the "City").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-108 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.

2. The City is empowered by Arizona Revised Statutes Section 48-572 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the City.

3. The State is developing plans to overlay portions of Main Street (U.S. Highway 60) within the City limits, including protection of bomanite crosswalks within the Town Center.

NO. <u>13218</u>
FILED WITH SECRETARY OF STATE
Date Filed <u>8-10-88</u>
<u>Jim Sheen</u> Secretary of State
By <u>A. Perdue</u>

4. The purpose of this agreement is to set forth the parties' responsibilities relative to construction and maintenance of the improved facility.

THEREFORE, it is mutually agreed as follows:

II. SCOPE OF WORK

1. The State shall develop plans, call for bids, award and administer one or more contracts for resurfacing Main Street from the west City limit line to Lewis Street, including resurfacing between existing bomanite on Main Street from Robson Street to MacDonald Drive.

2. The City shall bear all costs associated with additional labor, materials and equipment to mill out the concrete pavement prior to resurfacing, to protect the existing bomanite during resurfacing, and to provide construction administration for the additional work. Costs to the City shall be based on actual bid amount and are estimated to be \$52,000.

3. In addition to those costs as set forth above, the City shall bear all costs associated with contractor delays or claims for extra compensation, if any, attributed to the additional work required to protect the bomanite.

4. The State shall submit a bill to the City, together with a copy of the selected contractor's bid for costs associated with protecting the bomanite crosswalks. The City shall remit payment within thirty days of receipt of the bill.

5. Upon completion of the resurfacing project, the City shall retain maintenance responsibilities for Main Street.

III. MISCELLANEOUS PROVISIONS

1. This agreement shall remain in force and effect until completion of said construction project; provided, however, that any provisions herein for maintenance shall be perpetual unless cancelled by mutual agreement upon ninety days' written notice to the other party.

2. This agreement shall become effective upon filing with the Secretary of State.

3. Both parties hereto acknowledge that this agreement may be cancelled by the Governor in accordance with Arizona Revised Statutes Section 38-511.

4. The provisions of Arizona Revised Statutes Section 35-214 apply to this agreement.

5. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518(B) and (C).

6. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation
Engineering Consultants Services
205 South 17 Avenue, Room 118E
Phoenix, AZ 85007

City of Mesa
City Engineer
55 North Center Street
P. O. Box 1466
Mesa, AZ 85201

7. Attached hereto and incorporated herein by reference is a copy of the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

CITY OF MESA

By

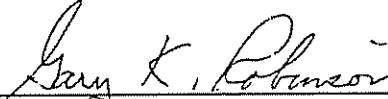


Title City Manager

STATE OF ARIZONA

Department of Transportation

By



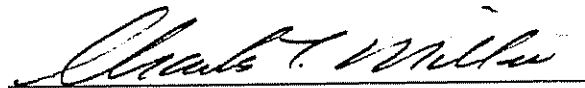
GARY K. ROBINSON
Chief Deputy State Engineer

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RESOLUTION

BE IT RESOLVED on this 26 day of July, 1988, that I, CHARLES L. MILLER, as Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona that the Department of Transportation, acting by and through the Highways Division, enter into an agreement with the City of Mesa for additional costs associated with protecting bomanite crosswalks during roadway resurfacing.

THEREFORE, authorization is hereby given to draft said agreement which, upon completion, shall be submitted for approval and execution by the Chief Deputy State Engineer.



CHARLES L. MILLER, Director
Arizona Department of
Transportation

RESOLUTION NO. 6033

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE CITY MANAGER TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF MESA AND THE STATE OF ARIZONA.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AS FOLLOWS:

Section 1: That the Intergovernmental Agreement No. IGA-88-38 between the State of Arizona and the City of Mesa, regarding the resurfacing of Main Street from Robson Street to MacDonald Drive, is hereby approved.

Section 2: That the City Manager is authorized and directed, on behalf of the City of Mesa, to execute the Intergovernmental Agreement, and the City Clerk is authorized and directed to attest to the signature of the City Manager thereon.

PASSED AND ADOPTED by the City Council of the City of Mesa, Maricopa County, Arizona this 1 day of August, 1988.

APPROVED:

Peggy Rutach
Mayor

ATTEST:



Grace M. Lobeluy, Deputy
City Clerk

The foregoing Intergovernmental Agreement, No. IGA-88-38, has been reviewed by the undersigned attorney who has determined that it is in proper form and within the power and authority granted to the City of Mesa under the laws of the State of Arizona.

DATED this 1st day of August, 1988.

Neal Joseph Beets
City Attorney

ATTORNEY GENERAL
1275 West Washington
Phoenix, Arizona 85007
Robert K. Corbin

INTERGOVERNMENTAL AGREEMENT


DETERMINATION

A. G. Contract No. KR-88-1420-TRD, which is an agreement between public agencies, has been reviewed pursuant to Arizona Revised Statutes Section 11-952, as amended, by the undersigned Assistant Attorney General, who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter said agreement.

Dated this 9th day of August, 1988.

ROBERT K. CORBIN
Attorney General


Assistant Attorney General
Transportation Division